

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

GLENN PAUL COOK

Petitioner,

VS.

UNITED STATES OF AMERICA

Respondent.


Case No. CV 06-S-8012-E

ORDER

On April 5, 2006, the magistrate judge's report and recommendation was entered and the parties were allowed therein fifteen (15) days in which to file objections to the recommendations made by the magistrate judge. Petitioner filed objections on April 19, 2006, contending that he is raising his claim of involuntary guilty plea for the first time in this court. He attempted to raise the claim on the appeal from the denial of his first motion pursuant to 28 U.S.C. § 2255, and the Eleventh Circuit Court of Appeals ruled that he could not do so because he had not raised it in the district court first. The magistrate judge correctly noted that 28 U.S.C. §§ 2255 and 2244(b)(3) require that, before a second § 2255 motion is filed in the district court, a petitioner must obtain an order from the appellate court authorizing the district court to consider the motion. Petitioner has failed to do so.

After careful consideration of the record in this case, the magistrate judge's report and recommendation, and petitioner's objections thereto, the court hereby ADOPTS the report, and ACCEPTS the recommendations of the magistrate judge. Therefore, it is ORDERED, ADJUDGED and DECREED that the Motion to Vacate, Set Aside or Correct Sentence, filed pursuant to 28 U.S.C. § 2255, is due to be and it hereby is, DENIED and this action DISMISSED. The clerk is directed to close this file.

DONE this 4th day of May, 2006.



United States District Judge